



# **San Diego City Attorney CASEY GWINN**

## **MEDIA ADVISORY**

**FOR IMMEDIATE RELEASE: August 6, 2004**

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### **COURT TO SET HEARING TO DETERMINE OWNERSHIP OF THE MT. SOLEDAD PROPERTY, RESPONSE BY CITY ATTORNEY**

Federal District Court Judge Gordon Thompson will schedule a hearing before the election to determine the ownership of the Mt. Soledad property. The City believes the Judge will rule the property is owned by the City of San Diego. Such a ruling will allow the City to re-sell the Mt. Soledad property to the highest bidder. On July 27, the San Diego City Council voted to place a proposition on the November ballot, authorizing the sale. A two-thirds vote is needed to pass the proposition.

In 2002, the en banc panel of the Ninth Circuit Court of Appeals ruled the City's 1998 sale of the land surrounding the Mt. Soledad cross was unconstitutional because the manner of the sale provided financial benefit to parties who intended to maintain the cross on the property as opposed to those who would remove it. The Mt. Soledad Association made the highest bid of \$106,000 and took title to the property in 1998. In its ruling, the Ninth Circuit observed "there are several possible ways to cure the violation" and left it up to the parties and the United States District Court to devise "a remedy for the constitutional violation."

The Court declined to rule on any other issues raised by the Mt. Soledad Association and by the Plaintiff, Phillip Paulson, until after the November election.

Statement by  
Deputy City Attorney Jim Chapin

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